

*United States Court of Appeals
for the Second Circuit*



**APPELLANT'S
APPENDIX**

74-2032

IN THE

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

(B)

(C)

CIVIL ACTION NOS. 74-2032 - 74-2033

ARCHIE CHESNEY

Plaintiff-Appellee

v.

JOHN R. MANSON, ET ALs

Defendants-Appellants

APPENDIX TO APPELLANTS' BRIEF

On Appeal from the United States District Court for the
District of Connecticut

FOR APPELLANTS

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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ARCHIE CHESNEY

v.

CIVIL NO. 15,308

FREDERICK E. ADAMS, Warden,
Connecticut Correctional
Institution, Somers,
Connecticut, et al

ARCHIE CHESNEY

v.

CIVIL NO. H-20

JOHN R. MANSON,
COMMISSIONER OF CORRECTION,
STATE OF CONNECTICUT

RULING ON MOTION TO STAY

Defendant has orally moved for a stay or modification of the judgment entered in this case in order to afford the State time to consider and perfect an appeal or to adapt its commitment procedures for prisoners to the constitutional requirements outlined in this Court's opinion. The State expresses several concerns. First, doubt is raised as to whether commitment procedures authorized for non-prisoners, such as those provided by Conn. Gen. Stat. § 17-183 are applicable to prisoners in light of Conn. Gen. Stat. § 17-206, which provides:

Except as otherwise expressly provided, the provisions of this chapter shall not extend to or affect in any way the cases of persons convicted of or charged with crime.

Second, there is concern that if non-prisoner procedures are

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U.S. DISTRICT COURT
HARTFORD, CONN.
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inapplicable to prisoners because of § 17-206, the state is left without even emergency mental hospital transfer authority for prisoners if § 17-194(a) is invalidated in its entirety. Finally, some concern is also expressed about the administrative problems that may be encountered in applying non-prisoner procedures such as those in § 17-183 to prisoners.

Some of the State's concerns appear to be premature. It is by no means certain that § 17-206 precludes the application of civilian commitment procedures to prisoners. The statute specifically renders the pertinent chapter inapplicable to "cases" of persons convicted of or charged with crime. It may well be that this statute is designed only to insure that Chapter 300, containing commitment procedures, will have no bearing upon the litigation of criminal cases, i.e., will not affect such issues as competency to stand trial or determinations of mental capacity. The statute surely does not have to be read to preclude the application of civilian commitment procedures to prisoners in circumstances where such commitment has no bearing upon the prisoner's criminal case. Of course, if, upon an application for commitment of a prisoner to a probate court, or some other state court, should authoritatively rule that § 17-206 must be read broadly to preclude the application of any civilian commitment procedures to prisoners, then the State may reapply to this Court for supplemental relief. In that event, of course, the plaintiff will be entitled to be heard as to whether such a broad reading of the statute renders that statute unconstitutional.

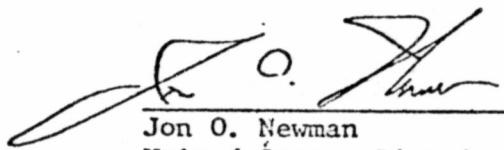
As to the present status of § 17-194(a), the Court's prior opinion invalidated that statute because it authorized commitments "until the expiration of the [prison] term . . . or until such person has recovered his sanity." It was not the Court's intention to preclude the use of § 17-194(a) for short-term transfers to permit observation, diagnosis, and treatment of the prisoner and a decision as to whether commitment procedures should be initiated. Accordingly, the judgment will be modified to make clear that § 17-194(a) is invalidated only to the extent that it authorizes commitment beyond what is authorized for non-prisoners. This will permit a prisoner to be transferred to a mental health facility under procedures comparable to those available, for example, under § 17-183, whereby the initial transfer can be made upon the certification of a physician for fifteen days, provided that during that fifteen-day period, application for commitment is made to a probate court, in which event an additional thirty-day confinement is authorized. The probate court will then determine the appropriateness of commitment.

The State's concerns about administrative problems need not be dealt with at this time, since the availability of probate court commitment procedures for prisoners, pursuant either to §§ 17-183 or 17-178, or pursuant to a modified version of § 17-194(a), may obviate much of the difficulty the State anticipates.

Accordingly, the judgment entered June 26, 1974, is modified to provide that Conn. Gen. Stat. § 17-194(a) is

declared invalid to the extent that it authorizes transfer of prisoners to mental health facilities under any conditions or circumstances that could not be applied to non-prisoners. The balance of the defendant's motion is denied, without prejudice to renewal as circumstances may warrant.

Dated at Hartford, Connecticut, this 11th day of July, 1974.



Jon O. Newman
United States District Judge -

